Calendar No. 557

99TH CONGRESS
2d Session

SENATE

REPORT
99-261

AUTHORIZING APPROPRIATIONS TO CARRY OUT THE ENDANGERED SPECIES ACT OF 1973

MARCH 14 (legislative day, MARCH 10), 1986.—Ordered to be printed

Mr. CHAFEE, from the Committee on Environment and Public Works, submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany S. 725]

The Committee on Environment and Public Works, to which was referred the bill (S. 725) to authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1986, 1987, 1988, 1989, and 1990 having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

GENERAL STATEMENT

The first legislation enacted specifically to protect endangered species was the Endangered Species Preservation Act of 1966 (P.L. 89-669). The 1966 Act contained four important provisions. First, it directed the Secretary of the Interior to "carry out a program in the United States of conserving, protecting, restoring and propagating selected species of native fish and wildlife." Second, it authorized the acquisition of endangered species habitat for inclusion in the National Wildlife Refuge System. Third, it required the preparation of an official list of endangered species. Fourth, it declared that the Departments of Interior, Agriculture, and Defense shall seek to protect species of native fish and wildlife threatened with extinction and preserve the habitat of these species on lands under

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their jurisdiction, if it is practicable and consistent with the primary purposes of the Departments' agencies.

The Endangerd Species Conservation Act of 1969 (P.L. 91-135) corrected several of the weakeness of the 1966 Act. The 1969 Act expanded the Secretary's habitat acquisition authority. It also redefined fish and wildlife to include "any wild mammal, fish, wild bird, amphibian, reptile, mollusk, or crustacean." The 1966 Act had been limited to vertebrate animals. But the international aspects of the 1969 Act were the most noticeable improvement. It authorized the publication of a list of species or subspecies of fish and wildlife threatened with "world-wide" extinction and prohibited their importation into the United States.

Even with the 1966 and 1969 Acts, the endangered species program was far from adequate. There still were no prohibitations on the taking of endangered species, and the habitat protection provisions remained limited.

In 1973 Congress enacted the comprehensive Endangered Species Act of 1973 to correct the shortcomings of its previous legislative efforts. The 1973 Act embraced "any member of the animal kingdom" within its protective reach, and for the first time authorized the listing and conservation of plants. A category for threatened species was established in addition to the existing one for endangered species to protect species before they become endangerd. The 1973 Act also provided for the protection of habitat critical to the continued existence of endangered and threatened species. Most significantly, under section 9 of the Act, for the first time, the taking of endangered species was prohibited, while section 7 now imposed strict but necessary requirements on all Federal agencies to protect endangered and threatened species and their habitat.

The most significant changes in the Endangered Species Act since 1973 came in 1978. That year Congress amended section 7 of the Act to establish an Endangered Species Interagency Committee to review Federal agency actions that would jeopardize the continued existence of a threatened or endangered species or destroy critical habitat. The Endangered Species Committee then determines whether the Federal action should be exempted from the Act's prohibition of such actions. At the same time, Congress also amended section 4 of the 1973 Act to require the designation of critical habitat as part of the listing process.

In 1979, Congress amended several sections of the 1973 Act in large part to bring them into conformance with agency practice and judicial decisions. None of the amendments significantly changed the substantive provisions of the 1973 Act.

By 1982, it had become clear that the 1978 amendments to section 4 of the Act had burdened the listing process with nonbiological factors and, as a result, had greatly decreased the number of species listed annually. Consequently, in that year, Congress adopted amendments which prevented consideration of economic impact in listing decisions and ensured that listings or delistings are based solely on biological data. Time frames for the various steps in the listing process also were incorporated into the ESA to require that petitions to list species are considerd expeditiously. Because of the changes made in the listing process, the number of species listed pursuant to the ESA increased from 11 in 1982 to 46 in 1984.

A number of other changes were made in 1982 in the consultation process established under section 7 of the Act in an attempt to bring greater predictability to that process. Time frames were set and a procedure for consultation at the initial stages of a development was incorporated into the ESA. The 1982 amendments also streamlined the section 7 exemption process and shortened the time in which a decision had to be rendered. Other amendments to the 1973 Act were adopted in 1982 to provide that actions in compliance with measures specified by the Secretary of the Interior to minimize takings in section 7 consultations are exempt from the prohibition in section 9 against incidental takings; and to encourage establishment of experimental populations to aid recovery of a species.

The long and painstaking development of the Federal endangered and threatened species program demonstrates an unwavering commitment to the conservation of these species and their habitat. Moreover, 12 years of experience with the Act has shown that it is fundamentally sound. The ESA of 1973 has evolved to permit greater flexibility and predictability with regard to economic development.

An important factor in considering the need for further amendments to the ESA is that the Act was altered significantly in 1982 and that implementing regulations reflecting all of the changes have not been promulgated or have been promulgated only recently. As a result, it remains difficult to judge the effectiveness of the changes that were made in 1982. Additionally, amendments to the ESA in 1978, 1979 and 1982 and the corresponding regulatory revisions have kept the program in a state of flux. Greater stability in the provisions of the Act and its implementing regulations is in the best interests of endangered species protection and economic development. For these reasons, no substantive amendments to the ESA were approved by the Committee.

The authorization for appropriations to implement the ESA, however, did expire on September 30, 1985. S.725 continues the Federal commitment to the conservation of endangered and threatened species and their habitat and extends the budget authority for this program through fiscal year 1988 at increased authorization levels. The level of authorizations is increased by $17.7 million over a 3-year period based on three considerations. First, more than $10 million of that increase is needed to offset inflation and maintain the endangered species program at 1982 funding levels. Second, the authorization for grants to states under section 6 of the Act is increased from $6 million in fiscal year 1986 to $12 million in fiscal year 1988. In addition to offsetting inflation this increase recognizes that, throught income tax check-offs, and other funding mechanisms, more than 30 states have increased greatly their funding of nongame and endangered species conservation.

States with cooperative agreements under section 6 consistently have sought two to three times the amount of Federal assistance that has been available for that purpose. Cooperation with the States, pursuant to section 6, provides greater benefits for endangered species with less expenditure of Federal funds. Third, authorization levels are increased to provide greater resources for listing species already identified as category I candidates. These are spe-

cies for which there already is sufficient biological information to warrant proposals for adding them to the ESA list. Only a lack of funds and personnel has prevented these species from being protected by the Act.

In addition to the need for increased funding to offset inflation and to improve implementation of the ESA, a number of other issues were raised in the four days of hearings held by the Subcommittee on Environmental Pollution, which included field hearings in Montana and Idaho on management of grizzly bears.

Since 1975, the grizzly bear has been listed under the ESA as a threatened species in the lower 48 States. The U.S. Fish and Wildlife Service approved a recovery plan for the grizzly bear in 1982 which identified six ecosystems in Wyoming, Idaho, Montana, and Washington where concentrated efforts would be made to recover the species. These States and five Federal agencies have a role in the management and recovery of the grizzly bear. To coordinate the activities of the State and Federal agencies, an Interagency Grizzly Bear Committee (IGBC) was formed in 1983. Establishment of the IGBC has promoted cooperation among the involved State and Federal agencies. Recent IGBC efforts have concentrated properly on minimizing the likelihood of human-grizzly bear conflicts and on preserving habitat areas essential to the grizzly bear.

Large predators protected by the Endangered Species Act such as the grizzly bear, which occupy habitats in close proximity to human settlements, pose significant management challenges. Grizzly bears may threaten both people and property. Many human activities may be incompatible with maintenance of grizzly bear populations. However, the presence of this species in certain areas at population levels that are self-sustaining is strong evidence that humans are willing to restrict their activities on behalf of grizzly bears.

In order for grizzly bears and people to live in close proximity to each other and for both to prosper, there is a need for intensive and innovative management. Efforts to reduce conflicts between humans and grizzly bears should include public information programs, improved sanitation around human habitations in grizzly bear habitat, mechanism to prevent or restrict grizzlies from entering campsites, rigorous enforcement of regulations to protect the bear, and some temporary closures of areas to human use.

Temporary closures of areas to human use are sometimes necessary. However, these closures should be for periods that are as brief as possible in those situations where bears move into habitat that is also a recreational area having substantial human use. Protection of grizzly bears to insure the species' continued recovery through use of such closures ordinarily should not include setting aside large areas of land exclusively for grizzly bear use. When such a management alternative is needed, its use should be restricted to specific and temporary periods of time and types of activities when bears are known to be in such areas. Areas should be closed temporarily only when the purpose of that closure cannot be satisified by other management strategies.

Grizzly bear management strategies should be aimed at reducing the probability of conflicts between humans and their property and grizzly bears. In the past when such conflicts have resulted from

nuisance grizzly bears, the agencies responsible for handling these problem bears have not responded in a well coordinated and timely enough manner. Failure to respond quickly and effectively to nuisance bears is detrimental to public acceptance of grizzly bear recovery efforts, and consequently impairs the long-term conservation of the species.

In the Yellowstone ecosystems, where some bears have lost their fear of man and enter campsites in search of food, greater use of preventative techniques is needed to prevent rewarding of nuisance bears. The Secretary, therefore, should review the management and handling of nuisance grizzly bears and investigate preventative techniques, and after public review and comment, should report to the Committee on what programs have worked and what changes are needed and have been implemented at both the state and federal levels to insure prevention and effective responses to situations involving nuisance bears.

Another grizzly bear conservation concern has been the Interior Department's position that the State of Montana does not qualify for a full authorities agreement for section 6 funding of grizzly bear projects. The Montana Department of Fish, Wildlife and Parks has established and is maintaining an adequate and active program for the conservation of the grizzly bear which, for all intents and purposes, is in accordance with the purposes and policies of the Endangered Species Act. Although Montana law is less restrictive than the Endangered Species Act with respect to the taking of grizzly bears, the State fully recognizes that its law is preempted by more stringent Federal law. The Secretary, therefore, should, without further delay, enter into a full authorities agreement pursuant to section 6(c) for the purposes of assisting in implementation of the Montana program for conservation of grizzly bears.

In another area, we are concerned that implementation of the Endangered Species Act and State water allocation laws in some western river systems has created the potential for conflicts over water use. State water allocation laws, interstate compacts and equitable apportionment decrees protect the rights of existing water users, provide stability throughout water use areas and assure certainty of supply for agriculture, industries and municipalities in the West. However, protection of interstream values in these river systems can be difficult because some of the States do not recognize as a beneficial use the maintenance of flows to conserve aquatic and riparian ecosystems.

Because Congress was aware of the potential for conflict between State water allocation policies and the goals of the Endangered Species Act, section 2(c)(2) was added to the Act during the 1982 reauthorization process. This section set forth the congressional policy that "Federal agencies shall cooperate with State and local agencies to resolve water resources issues in concert with conservation of endangered species."

The Fish and Wildlife Service, the Bureau of Reclamation, and representatives of the affected States have recently formed working groups to resolve, where possible, the potential conflicts between the Endangered Species Act and State water laws, interstate compacts, and Supreme Court decrees which govern water allocation

and use in those basins. The purpose of these working groups is to cooperate in discussions seeking ways to develop and implement recovery plans and a program of reasonable and prudent alternatives which will enable Federal agency actions associated with water project development and depletions to proceed pursuant to section 7 of the Endangered Species Act without the likelihood of jeopardizing the continued existence of any threatened or endangered species in the Colorado and Platte River systems, while fully acknowledging and considering the beneficial uses of water pursuant to the respective State water rights system and the use of water apportioned to a State pursuant to the compacts and equitable apportionment decrees concerning the waters of these rivers.

The formation of the working groups for the two river systems is encouraging. These working groups and their stated purposes are consistent with the goal and direction provided by section 2(c)(2).

The Fish and Wildlife Service faces a complex and difficult task. Nevertheless, it is significant that all parties have expressed their willingness to contribute to the resolution of potential conflicts. Sound biological and hydrologic data and full and equal participation by all interested parties are, of course, indispensible to the working groups' success. The reports of these working groups are expected to be completed within two years. In preparing these reports, the working groups are expected to undertake a comprehensive evaluation of measures to reduce conflicts, including, if necessary, possible changes in Federal and State law.

The three-year authorization provided by this bill reflects the view that changes to the Act are not now necessary to avoid conflicts between water projects and threatened or endangered species. Prior to the end of this three-year period, Congress can review the reports of the working groups and consider, after examining all possible alternatives including the exemption process provided for in section 7, whether additional authority should be provided in the Endangerd Species Act or other Federal laws to implement the groups' recommendations.

Hearings

The bill, S. 725, was introduced on March 20, 1985. The subcommittee on Environmental Pollution conducted oversight hearings in conjunction with consideration of the bill on April 16 and 18, 1985 in Washington, D.C.; on July 1, 1985 in Great Falls, Montana; and on September 3, 1985 in Rexburg, Idaho.

Rollcall Votes

Section 7(b) of rule XXVI of the standing Rules of the Senate and the Rules of the Committee on Environment and Public Works require that any rollcall votes taken during consideration of this bill be announced in this report.

The bill as ordered reported on December 4, 1985 by a rollcall vote of 15 to 0.

Regulatory Impact Evaluations

Section 11(b) of rule XXVI of the standing Rules of the Senate require the Committee to evaluate the regulatory impact of the reported bill.

It is not anticipated that this bill will impose any significant new regulatory burden.

Cost of Legislation

Section 403 of the Congressional Budget and Improvement Control Act requires that a statement of the cost of the reported bill, prepared by the Congressional Budget Office, be included in the report. That statement follows:

U.S. Congress,
Congressional Budget Office,
Washington, DC, December 6, 1985.

Hon. Robert T. Stafford,
Chairman, Committee on Environment and Public Works, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the attached cost estimate for S. 725, a bill to authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1986, 1987, and 1988.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,

Sincerely,

Rudolph G. Penner.

Congressional Budget Office—Cost Estimate

1. Bill number: S. 725.

2. Bill title: A bill to authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1986, 1987, and 1988.

3. Bill status: As ordered reported by the Senate Committee on Environment and Public Works, December 5, 1985.

4. Bill purpose: S. 725 would authorize appropriations to the Departments of Commerce, Agriculture and the Interior for the implementation of the Endangered Species Act of 1973 for fiscal years 1986, 1987, and 1988.

5. Estimated cost to the Federal Government:

[By fiscal years, in millions of dollars]

	1986	1987	1988	1989	1990
Authorization level	41.8	49.0	56.0		
Estimated outlays	34.7	44.0	53.7	8.8	5.0

The costs of this bill fall within budget function 300.

Basis of estimate: The authorization levels are those stated in the bill. It is assumed that the full amounts authorized will be appropriated for each year. Outlays have been estimated on the basis of historical spending patterns.

6. Estimated cost to State and local governments: None.

7. Estimate comparison: None.

8. Previous CBO estimate: On May 15, 1985, CBO prepared a cost estimate for H.R. 107, a similar bill ordered reported by the House Committee on Merchant Marine and Fisheries. The authorization levels in the House-reported bill are lower than in S. 725, and the estimated outlays reflect that difference.

9. Estimate prepared by: Deborah Reis.

10. Estimate approved by: C. G. Nuckols, (for James L. Blum, Assistant Director for Budget Analysis).

Departmental Reports

The Committee on Environment and Public Works received the following department report:

U.S. Department of the Interior,
Office of the Secretary,
Washington, DC, December 3, 1985.

Hon. Robert T. Stafford,
Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC.

Dear Mr. Chairman: This is to provide you with our views on S. 725, a bill "To authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1986, 1987, 1988, 1989, and 1990."

We recommend enactment of S. 725 with the amendments discussed below.

As introduced, S. 725 would:

(1) Amend section 15(a)(1) of the Endangered Species Act (16 U.S.C. *et seq.*) to extend the current $27 million annual authorization of appropriations for this Department's activities under the Act through FY 1988 and would increase the authorization to $33.75 million annually for FYs 1989 and 1990.

(2) Amend section 15(b) of the Act to extend the current $6 million annual authorization for grants to States through FY 1988 and to increase the authorization to $10 million annually for FYs 1989 and 1990.

(3) Amend section 15(c) of the Act to extend the current $600,000 annual authorization for the Endangered Species Committee's review of exemption requests through FY 1990.

(4) Amend section 15(d) of the Act to extend the current $300,000 annual authorization for implementation of the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere through FY 1990.

The bill would also extend the authorization of appropriations for activities of the Departments of Commerce and Agriculture under sections 15(a)(2) and (3) of the Act.

As ordered reported by the Subcommitee on Environmental Pollution, S. 725 would:

(1) Authorize appropriations to this Department under section 15(a)(1) of $30 million for FY 1986, $33.75 million for FY 1987, and $36 million for FY 1988.

(2) Authorize $6, $10, and $12 million for FYs 1986, 1987, 1988, respectively, for grants to States.

(3) Extend the authorization concerning review of requests for exemptions for three years.

(4) Authorize appropriations of $300,000 in FY 1986 and of $400,000 annually in FYs 1987 and 1988 for Western Hemisphere Convention implementation.

The bill would also extend and increase authorizations of appropriations for the Department of Commerce and Agriculture.

The Endangered Species Act is probably the most far-reaching law ever enacted by any country to prevent the extinction of imperiled animals and plants. Conserving these biological resources is a complex job involving not only the Federal Government, but also the States, the scientific community, conservation organizations, industry, and concerned individuals. Since 1973, the Congress has enacted a number of amendments designed to make the Act more effective and, at the same time, to increase its flexibility for responding to potential problems. These changes, along with internal administrative improvements in the Federal departments responsible for implementing the Act, have resulted in a program that is efficiently and cooperatively.

We recommend that the Endangered Species Act be reauthorized to four years and that S. 725 be further amended to:

(1) Authorize appropriations for FY 1986 of $23 million to the Department of the Interior for administration of the Act under section 15(a)(1) and $4 million for grants to States under section 15(b). These amounts, approximately equal to the appropriations by Congress for FY 1985, are consistent with the President's FY 1986 budget request and would provide for the continuation of our endangered species activities at current levels. We recommend that such sums as may be necessary be authorized in the subsequent three fiscal years for these activities. Specific fundings requests for FYs 1987–1989 will be prepared during the normal budget formulation process.

(2) Authorize appropriations of such sums as may be necessary through FY 1989 for the exemption process under section 15(c) of the Act. This will assure that the exemption process will remain available if needed.

(3) Delete the provision extending specific funding for implementation of the Western Hemisphere Convention under section 15(d) of the Act. Because we have sufficient existing statutory authority to undertake work under the Convention, and because our budget request does not contain a specific request for funding for those activities, we do not believe that reauthorization of section 15(d) of the Act is necessary.

We defer to the Departments of Commerce and Agriculture for recommendations of specific funding levels for their activities under the Act.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

P. DANIEL SMITH,
Deputy Assistant Secretary.

ADDITIONAL VIEWS OF MR. SIMPSON

The Endangered Species Act has come to be one of the most important pieces of environmental legislation on the books today. The Act supersedes all other federal laws when conflicts concerning a threatened or endangered species arise.

Significant efforts to protect endangered or threatened species are very necessary to preserve ecological diversity in the United States. However, there are individuals in federal agencies and those belonging to environmental interest groups that would clearly abuse authorities provided for in the Endangered Species Act in order to carry out a personal agenda not necessarily at all related to protecting plant and animal species. We must constantly guard against cases where well-meaning or mischievous persons attempt to use the Act to carry out a "hidden agenda" in the field of land-use planning.

The Endangered Species Act has worked well in most instances despite efforts by some to stretch its intent. In the western states we find that the most serious effects of misapplication of the Act may interfere with a state's right to allocate water. A three-year reauthorization period is meant to give federal and state agencies a chance to work cooperatively to iron out differences relating to water rights and species management. I view this as a very constructive development and would encourage continued cooperation in the manner as we have seen in the Colorado and Platte River Basins.

One area of the Endangered Species Act has caused me much concern. That is, the effect of "listing" a large predator such as the grizzly bear, and what that does to land use in national parks, national forests and other public and state lands. My specific concerns center around the Yellowstone ecosystem in Wyoming, Montana and Idaho. The management of the grizzly bear by federal agencies has improved in the past few years because of increasing public involvement in policy considerations. I trust management will continue to improve to the point where grizzlies in the Yellowstone ecosystem can be removed from the threatened list and state agencies can once again be able to resume full responsibility for management of the grizzly.

The grizzly bear recovery effort cannot be fully successful unless all segments of the public support these efforts wholeheartedly. In this respect, the recovery effort may be hampered by a recent court case which prevents the hunting of threatened or endangered species unless hunting is the only method available to reduce population pressures. Hunting is a valid management tool for large predators and it may be quite necessary for the grizzly bear recovery effort. Some may argue that no hunting should be allowed if the species is listed as threatened. However, in the case of the grizzly bear or the wolf, hunting may actually enhance recovery activities.

Most animal preservationists tend to forget that most hunters are some of our nation's most avid conservationists. Hunters wish to see game conserved and they are usually very actively involved in biological and political efforts centered on preservation. The grizzly bear recovery effort would have much more public support in the West if hunting were to be allowed in one form or another. As it stands now, hunting activities are restricted because of grizzly bear management practices, and this only tends to breed ill-will with hunters, outfitters and other citizens.

Hunting can also have a beneficial effect on the management of grizzly bears because it can condition bears to avoid humans and remove bears from a given ecosystem where they have lost their fear of man. I am not an advocate of some "wide open" hunting season on the grizzly. I am an advocate of listening to members of the interagency grizzly bear Committee and Fish and Wildlife Service enforcement agents that counsel me to believe that hunting may be needed in the Yellowstone ecosystem in the next few years in order to enhance grizzly bear recovery efforts. I have recently learned that the Fish and Wildlife Service is issuing a proposed regulation which would allow the State of Wyoming to conduct a very limited hunt of grizzlies, taking into account total mortality in the ecosystem. Yet, there are legal questions which may prevent such a hunt from occurring even if it is in the ultimate best interest of the grizzly bear. I do find that very disturbing.

Some preservationists and environmental groups see hunters as some unthreatened species of a bloodthristy, beer-guzzling, band of ravagers of Mother Nature. This may be true of a few hunters, but it has been my personal experience in Wyoming that most hunters are thoughtful and concerned coservationists that have very serious ethical beliefs which are grounded in a desire to protect the various game species. I do not intend to review the pros and cons of hunting activity except where it pertains to valid wildlife management practices. If hunting helps a species to recover or prosper then it ought to be considered as a valid management practice since non-hunters and hunters alike will benefit from such activity if a given species thrives as a result.

The Endangered Species Act, when interpreted by some courts, is construed rather narrowly where hunting is concerned. Congress should review these cases and make every attempt to assure that professional wildlife managers have at their disposal the means necessary to enhance threatened and endangered species populations in the minimum time period necessary. For that reason, serious consideration should be given to amending the Endangered Species Act in order that wildlife management professionals have available all of the tools needed to bring about species recovery in a timely manner.

Obviously, hunting is not a wildlife management tool that may apply to plants and invertebrates or small vertebrates. However, where large predators are concerned, this may be the special case where hunting can provide us with dramatic and beneficial results. There may be only one or two species which could benefit from such practices, and these species should be afforded the same consideration that other, more easily managed species are given.

Hunting is certainly no panacea for the grizzly bear decline. But in combination with other management practices it may be the critical element which will allow our grandchildren to know that the awesome grizzly bear still roams in the western wilderness.

Recently, the Forest Service has initiated some new management practices in the Yellowstone ecosystem in Wyoming. Specifically, the Forest Service has installed steel "bear-proof" boxes and winches with cables at campsites, so that outfitters and back country users can store their food in these bear-proof receptacles or hoist their food high above the heads of nuisance bears.

This management approach may not be necessary in other ecosystems in other states. However, in the Yellowstone ecosystem, the providing of equipment which will restrict bears from being rewarded when they enter campsites is a fine short-term alternative. There are some down sides to this practice which may relate to over-use of the campsites with such facilities. Nevertheless, in this stage of the grizzly recovery effort, these devices seem to be quite reasonable. The Park Service should make every effort to follow the direction that the Forest Service has initiated in this regard. I have found that while the Forest Service is vigorous in installing these devices, the Park Service seems to lag behind.

Humans can co-exist with grizzly bears if public participation is increased and if the regulations are reasonable. Hunting may be a necessary management alternative but it should be limited only to areas where problem bears are causing conflicts. Limited hunting can assure that bears are wary of humans—and also restrict problem bears from areas where they should not be. Other management alternatives should also be explored in order that back country human use and grizzly recovery efforts are not somehow mutually exclusive.

ALAN K. SIMPSON.

ADDITIONAL VIEWS OF MR. SYMMS

Gramm-Rudman represents, more than anything, a national recognition that our skyrocketing deficit is a real and present peril. Unless this trend is halted, and hopefully reversed, our national prospects will grow dim and our personal welfare threatened.

Against this grim backdrop, where the welfare of people is at risk, its inconceiveable to me that we are going to authorize almost $30 million on a program, that, though desirable, will not address the immediate, very serious problems we have.

The State of Idaho has far more than its fair share of endangered species. We've always had the grizzly bear, the gray wolf was discovered a few years ago and the woodland caribou has suddenly become a matter of great concern. The woodland caribou, by the way, appears to be unique in that it is essentially a non-resident Endangered Species. The latest addition to the list is the Bruneau snail—a match-head sized resident of a small hot spring in Owyhee County. Each of these species, poses to some extent a threat to the accepted, long established uses of our public land. These are the uses that have generated the funds for schools, hospitals and other public services. These are the uses that provide many of the jobs for the people of Idaho.

From this perspective I'd like to discuss one specific Threatened Species—the grizzly bear—in one specific locality—Yellowstone Park.

Grizzly bear are indigenous to Idaho. As the state was settled the bear retreated to less accessible, more isolated areas. I think its fair to say that an uneasy truce between man and bear existed for many years. Yellowstone Park supported a significant—and justly famous—population of grizzlies. There were isolated incidents but no dramatic outbreaks of bear-man violence until the National Park Service decided to close the Parks garbage dumps to foraging bear in 1968. The intent seems to have been to re-create a natural, stable grizzly population relatively unspoiled by human contact. The complete results of the dump closures, and other factors, are not clear. However, I'm sure that they are not exactly what the Park Service had in mind.

Whether the bear population is stable or not is an open question. Population estimates for grizzlys in the "Yellowstone Ecosystem" seem to range from around 100 to maybe 300 bear. (The term "Yellowstone Ecosystem" is open to challenge on technical grounds.) Regardless of this, I think its obvious that if present populations are unknown its impossible to determine population trends. Some qualified biologists argue strongly that the Yellowstone population is trending down and may actually be threatened with extinction in the not too distant future. Other, equally qualified, biologists believe the population is stable or may even be increasing. The downtrenders seem to make the best case presenting evidence of signifi-

cant decrease in average animal weight. This decrease seems to have started fairly soon after the garbage dumps were closed. Other studies also indicate that, based on the bears reproductive rate, projected mortality and statistical probability, species survival is in jeopardy.

It's not too difficult to make the case that closing the garbage dumps deprived the bear of a food source to the extent that animal weight dropped significantly. From here it's an easy step to project that smaller animals are less healthy and therefore less successful in reproducing themselves.

It seems clear that closing the dumps forced the bear to range farther afield (outside the Park) to forage for food. Inevitably this has led to increased livestock predation, more bear/man incidents and higher bear mortality. Equally inevitable has been the push to expand the bear sanctuary (i.e. the Greater Yellowstone ecosystem.) In my mind, and in the view of most of the people in the adjacent areas who would be directly and adversely impacted by expansion of the bear first area, this is not a reasonable solution.

The current situation is unsatisfactory for all concerned. If, as seems probable, the bear population is declining that is unacceptable to everyone who truly cares about the bear. Increasing predation isn't acceptable to the livestock people and Yellowstone visitors probably aren't as happy without the bear plainly visible in the Park.

With these points in mind I suggested an experimental supplemental feeding program at a field hearing of the Environmental Pollution Subcommittee of the Environment and Public Works Committee in Rexburg, Idaho last September.

What needs to be explored is feeding the bear within the Park at various locations during periods of extreme stress. It seems to me that if healthy, stable bear population generally ranging in those areas of the Park least frequented by man. By feeding at random sites and irregular times it should be possible to avoid developing a zoo bear personality. There is enough natural mortality, over-population and diseased and failing animals that could be culled out of the Park's big game herds to provide the needed supplemental food.

Such an approach deserves serious consideration. Other actions should be taken to improve bear management in Yellowstone Park. I'll briefly discuss them of them.

I've been informed by numerous sources that when depradations are traced to a problem bear the Agencies spend more time deciding who is in charge than how to to deal with the predator. To remedy this I suggest that a lead agency be clearly designated to take full responsibility for controlling problem bear. This should be done well in advance and responsibilities fully understood.

My constituents also tell me that designating Situation I areas contiguous to private land is guaranteed formula for trouble. To alleviate this problem I recommend that the management guidelines require a graduated, progressive pattern of Situation classes.

The steps proposed do not negate the intent of the Endangered Species Act. It is the law of the land and I support it. However, the first mission of government if to provide for the freedom and security of the people. People always have the top priority. The Endan-

gered Species must be implemented with minimum interference with peoples lives. The actions I've proposed will help make the future of the grizzly more secure.

STEVE SYMMS.

CHANGES IN EXISTING LAW

Section 12 of rule XXVI of the Standing rules of the Senate requires publication of the changes in existing law made by the reported bill. The changes are shown as follows: existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic; existing law in which no change is proposed is shown in roman.

16 U.S.C. 1542

§ 1542. Authorization of appropriations

IN GENERAL

(a) Except as provided in subsections (b), (c), and (d) of this section, there are authorized to be appropriated—

(1) not to exceed [$27,000,000 for each of fiscal years 1983, 1984, and 1985] *$29,000,000 for fiscal year 1986, $31,000,000 for fiscal year 1987, and $35,000,000 for fiscal year 1988* to enable the Department of the Interior to carry out such functions and responsibilities as it may have been given under this chapter;

(2) not to exceed [$3,500,000 for each of fiscal years 1983, 1984, and 1985] *$4,000,000 for fiscal year 1986, $5,000,000 for fiscal year 1987, and $5,750,000 for fiscal year 1988* to enable the Department of Commerce to carry out such functions and responsibilities as it may have been given under this chapter; and

(3) not to exceed [$1,850,000 for each of fiscal years 1983, 1984, and 1985] *$1,850,000 for fiscal year 1986, $2,000,000 for fiscal year 1987, and $2,200,000 for fiscal year 1988* to enable the Department of Agriculture to carry out its functions and responsibilities with respect to the enforcement of this chapter and the Convention which pertain to the importation or exportation of plants.

COOPERATION WITH STATES

(b) For the purposes of section 1535 of this title, there are authorized to be appropriated not to exceed [$6,000,000 for each of fiscal years 1983, 1984, and 1985.] *$6,000,000 for fiscal year 1986, $10,000,000 for fiscal year 1987, and $12,000,000 for fiscal year 1988.*

EXEMPTIONS

(c) There are authorized to be appropriated to the Secretary to assist him and the Endangered Species Committee in carrying out their functions under section 1536(e), (g), and (h) of this title not to exceed $600,000 for each of fiscal years [1983, 1984, and 1985.] *1986, 1987, and 1988.*

(d) There are authorized to be appropriated to the Department of the Interior for purposes of carrying out section 1537a(e) of this title not to exceed [$150,000 for each of fiscal years 1983 and 1984, and not to exceed $300,000 for fiscal year 1985,] *$300,000 for fiscal year 1986, $400,000 for fiscal year 1987, and $400,000 for fiscal year 1988,* and such sums shall remain available until expanded.

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